

BIGGS SUBSTITUTE FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1291

I move the following SUBSTITUTE amendment to the TRANSPORTATION Committee Amendment to
SENATE BILL 1291 (Reference to Senate engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 28-872, Arizona Revised Statutes, is amended to
3 read:

4 28-872. Removal of vehicles; notice; liability for costs;
5 hearing

6 A. If a police officer finds a vehicle standing on a highway in
7 violation of section 28-871 the officer may move the vehicle or require the
8 driver or other person in charge of the vehicle to move the vehicle to a
9 position off the paved or main traveled part of the highway.

10 B. A police officer may remove or cause to be removed to a place of
11 safety an unattended vehicle that is illegally left standing on a highway,
12 bridge or causeway or in a tunnel in a position or under circumstances that
13 obstruct the normal movement of traffic.

14 C. A police officer may remove or cause the removal of a vehicle to
15 the nearest garage or other place of safety as follows:

16 1. If a report has been made that the vehicle has been stolen or taken
17 without the consent of its owner.

18 2. If the person or persons in charge of the vehicle are unable to
19 provide for its custody or removal.

20 3. If the person driving or in control of the vehicle is arrested for
21 an alleged offense for which the officer is required by law to take the
22 person arrested before a proper magistrate without unnecessary delay.

23 4. If the vehicle is left unattended for more than four hours on the
24 right-of-way of a freeway that has full control of access and no crossings at
25 grade.

1 5. Within the boundaries of a city, if the vehicle is left unattended
2 for more than two hours on the right-of-way of a freeway that has full
3 control of access and no crossings at grade.

4 D. If a police officer removes or causes the removal of a vehicle
5 pursuant to this section, the police officer shall do ~~one~~ BOTH of the
6 following when the vehicle is removed:

7 1. Provide to the tow truck operator a form that the police officer
8 signs and that includes the following information:

9 (a) The vehicle identification number.

10 (b) A number identifying the law enforcement agency and the officer
11 ordering the tow.

12 (c) The year, make and model of the vehicle.

13 (d) The license plate number if available.

14 (e) The date and time the vehicle was towed.

15 (f) The ~~address~~ ADDRESSES from which AND TO WHICH the vehicle was
16 towed.

17 (g) The name, address and telephone number, if the telephone number is
18 known, of the registered owner and the primary lien holder of the vehicle to
19 permit the towing company to notify the registered owner or the primary lien
20 holder.

21 2. ~~Electronically~~ Communicate to the officer's law enforcement agency
22 both of the following and provide to the towing company that towed the
23 vehicle the name, address and telephone number, if the telephone number is
24 known, of the registered owner and the primary lien holder of the vehicle:

25 (a) The name, ADDRESS and telephone number of the ~~person~~ TOWING
26 COMPANY towing the vehicle.

27 (b) The information prescribed by paragraph 1 of this subsection.

28 E. If a police officer provides the tow truck operator with the form
29 described in subsection D, paragraph 1 of this section, the tow truck
30 operator must provide the form to the person responsible for filing the
31 abandoned vehicle report pursuant to section 28-4838. The person responsible
32 for filing the abandoned vehicle report shall submit the form to the

1 department of transportation at the time the person files the abandoned
2 vehicle report.

3 F. The law enforcement agency receiving ~~electronic~~ information
4 pursuant to subsection D of this section shall **ELECTRONICALLY** record the
5 information as prescribed by the department of public safety. The department
6 of public safety shall make the information available to the department of
7 transportation.

8 G. When the department of transportation receives the information from
9 ~~either the department of public safety or the person responsible for filing~~
10 ~~the abandoned vehicle report pursuant to section 28-4838~~, the department of
11 transportation shall send notice by first class mail to all persons listed on
12 the department of transportation's records as having an ownership interest in
13 the vehicle. The notice shall include the vehicle identification number, ~~and~~
14 the name and telephone number of the ~~person~~ **TOWING COMPANY** that towed the
15 vehicle **AND THE ADDRESS TO WHICH THE VEHICLE WAS TOWED**. The director of the
16 department of transportation may include additional information on the notice
17 as the director deems necessary.

18 H. Except as provided in subsection I of this section:

19 1. The public agency employing an officer who removes or causes the
20 removal of a vehicle under this section is not liable for the cost of towing
21 or storing the vehicle if the officer acts under color of the officer's
22 lawful authority.

23 2. Before release of the vehicle by the towing ~~service~~ **COMPANY**, the
24 owner or the owner's agent of a vehicle that is removed or caused to be
25 removed under this article shall pay or make satisfactory arrangements to pay
26 for any reasonable towing and storage costs incurred in towing or storing the
27 vehicle.

28 I. If a tow truck operator is required in writing by a public agency
29 to tow or store a vehicle that is required as evidence in a criminal action
30 or for future criminal investigation by the public agency, the public agency
31 is liable for the towing and storage costs of the vehicle.

1 J. If a police officer removes or causes the removal of a vehicle as
2 permitted by this section, the public agency employing the officer shall
3 provide the registered owner of the vehicle or the registered owner's agent
4 with the opportunity for a poststorage hearing to determine the validity of
5 the removal. This hearing shall be conducted within forty-eight hours after
6 a request, excluding weekends and holidays. The public agency employing the
7 officer may authorize its own officer or employee to conduct the hearing if
8 the hearing officer is not the same person who removed or caused the removal
9 of the vehicle. The public agency employing the officer who removes or
10 causes the removal of the vehicle is responsible for the costs incurred for
11 towing and storage if it is determined at the hearing that probable cause for
12 the removal cannot be established.

13 Sec. 2. Section 28-3515, Arizona Revised Statutes, is amended to read:

14 28-3515. Unclaimed vehicles

15 NOTWITHSTANDING THE TEN-DAY PERIOD PRESCRIBED BY SECTION 28-4838,
16 SUBSECTION A, if a claim has not been made for the return or possession of
17 the vehicle by a person legally entitled to the vehicle within thirty days
18 after a vehicle is impounded pursuant to this article, the person who has
19 possession of the vehicle shall submit an abandoned vehicle report as
20 provided in section 28-4838 WITHIN TWO BUSINESS DAYS AFTER THE EXPIRATION OF
21 THE THIRTY-DAY PERIOD. The immobilizing or impounding agency shall require
22 the person who takes possession of a vehicle pursuant to this section to
23 obtain a release for the vehicle from the immobilizing or impounding agency.

24 Sec. 3. Title 28, chapter 8, article 9, Arizona Revised Statutes, is
25 amended by adding section 28-3516, to read:

26 28-3516. Removal of vehicles; notice

27 A. A PEACE OFFICER WHO CAUSES THE REMOVAL OF A VEHICLE FOR
28 IMMOBILIZATION OR IMPOUNDMENT PURSUANT TO THIS ARTICLE SHALL DO BOTH OF THE
29 FOLLOWING WHEN THE VEHICLE IS REMOVED:

30 1. PROVIDE TO THE TOW TRUCK OPERATOR A FORM THAT THE PEACE OFFICER
31 SIGNS AND THAT INCLUDES THE FOLLOWING INFORMATION:

32 (a) THE VEHICLE IDENTIFICATION NUMBER.

1 (b) A NUMBER IDENTIFYING THE LAW ENFORCEMENT AGENCY AND THE OFFICER
2 ORDERING THE TOW.

3 (c) THE YEAR, MAKE AND MODEL OF THE VEHICLE.

4 (d) THE LICENSE PLATE NUMBER IF AVAILABLE.

5 (e) THE DATE AND TIME THE VEHICLE WAS TOWED.

6 (f) THE ADDRESSES FROM WHICH AND TO WHICH THE VEHICLE WAS TOWED.

7 (g) THE NAME, ADDRESS AND TELEPHONE NUMBER, IF THE TELEPHONE NUMBER IS
8 KNOWN, OF THE REGISTERED OWNER AND THE PRIMARY LIENHOLDER OF THE VEHICLE TO
9 PERMIT THE TOWING COMPANY TO NOTIFY THE REGISTERED OWNER OR THE PRIMARY
10 LIENHOLDER.

11 2. COMMUNICATE TO THE OFFICER'S LAW ENFORCEMENT AGENCY BOTH OF THE
12 FOLLOWING AND PROVIDE TO THE TOWING COMPANY THAT TOWED THE VEHICLE THE NAME,
13 ADDRESS AND TELEPHONE NUMBER, IF THE TELEPHONE NUMBER IS KNOWN, OF THE
14 REGISTERED OWNER AND THE PRIMARY LIENHOLDER OF THE VEHICLE:

15 (a) THE NAME AND TELEPHONE NUMBER OF THE TOWING COMPANY TOWING THE
16 VEHICLE.

17 (b) THE INFORMATION PRESCRIBED BY PARAGRAPH 1 OF THIS SUBSECTION.

18 B. THE LAW ENFORCEMENT AGENCY RECEIVING INFORMATION PURSUANT TO
19 SUBSECTION A SHALL ELECTRONICALLY RECORD THE INFORMATION AS PRESCRIBED BY THE
20 DEPARTMENT OF PUBLIC SAFETY. THE DEPARTMENT OF PUBLIC SAFETY SHALL MAKE THE
21 INFORMATION AVAILABLE TO THE DEPARTMENT OF TRANSPORTATION.

22 C. WHEN THE DEPARTMENT OF TRANSPORTATION RECEIVES THE INFORMATION FROM
23 THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF TRANSPORTATION SHALL SEND
24 NOTICE BY FIRST CLASS MAIL TO ALL PERSONS LISTED ON THE DEPARTMENT OF
25 TRANSPORTATION'S RECORDS AS HAVING AN OWNERSHIP INTEREST IN THE VEHICLE. THE
26 NOTICE SHALL INCLUDE THE VEHICLE IDENTIFICATION NUMBER, THE NAME AND
27 TELEPHONE NUMBER OF THE TOWING COMPANY THAT TOWED THE VEHICLE AND THE ADDRESS
28 TO WHICH THE VEHICLE WAS TOWED. THE DIRECTOR OF THE DEPARTMENT OF
29 TRANSPORTATION MAY INCLUDE ADDITIONAL INFORMATION ON THE NOTICE AS THE
30 DIRECTOR DEEMS NECESSARY.

1 Sec. 4. Section 28-4802, Arizona Revised Statutes, is amended to read:

2 28-4802. Fees

3 A. Except as provided in subsection B of this section, the owner of
4 record of a vehicle at the time of abandonment of the vehicle is liable to
5 the department for the transfer of ownership or disposal in the amount of
6 fifty dollars if the vehicle was:

7 1. Abandoned and junked pursuant to article 3 of this chapter on
8 private property or public land or on or within the right-of-way of a street
9 or highway.

10 2. Abandoned on private property or public land or on or within the
11 right-of-way of a street or highway and the department issues a transfer of
12 ownership pursuant to the procedures prescribed by this chapter.

13 3. Abandoned and junked pursuant to article 3 of this chapter and
14 towed with the written permission of the state land commissioner from state
15 trust land located within the boundaries of an incorporated city or town.

16 B. The owner of record of a vehicle at the time of abandonment is
17 liable to the department for the transfer of ownership or disposal in the
18 amount of two hundred dollars if the vehicle was:

19 1. Abandoned and junked pursuant to article 3 of this chapter and
20 towed with the written permission of the governing authority off of national
21 forest, state park, bureau of land management or state trust land located
22 outside the boundaries of an incorporated city or town.

23 2. Abandoned and towed with the written permission of the governing
24 authority off of national forest, state park, bureau of land management or
25 state trust land located outside the boundaries of an incorporated city or
26 town and the department issues a transfer of ownership pursuant to the
27 procedures prescribed by this chapter.

28 3. Abandoned outside the right-of-way of a street or highway located
29 outside the boundaries of an incorporated city or town.

30 C. In addition to the registration fee or driver license fee
31 prescribed by sections 28-2003 and 28-3002, the department shall collect the
32 fee prescribed in subsections A and B of this section as an additional

1 registration fee at the time the owner of the vehicle subsequently registers
2 another vehicle in this state or as an additional driver license fee at the
3 time the owner of the vehicle subsequently applies for or renews a driver
4 license issued by this state. The department shall deposit, pursuant to
5 sections 35-146 and 35-147, the additional fee collected for the transfer of
6 ownership or disposal in the abandoned vehicle administration fund
7 established by section 28-4804.

8 D. The department:

9 1. Shall notify the owner of an abandoned vehicle for which ownership
10 has been transferred or of a junk vehicle that has been disposed of about the
11 additional fee at the time of a subsequent vehicle registration or driver
12 license application or renewal.

13 2. Shall provide a complete description of the abandoned or junked
14 vehicle, the vehicle identification number of the vehicle and the date on
15 which the vehicle was disposed of or ownership was transferred by the
16 department.

17 3. May waive the additional fee if the person provides proof
18 satisfactory to the director that the vehicle had been transferred or
19 assigned to another person before the day of abandonment.

20 4. May prescribe by rule a fee of not more than ten dollars for
21 processing an abandoned vehicle report.

22 5. MAY PRESCRIBE BY RULE AN ADDITIONAL ABANDONED VEHICLE REPORT FEE.

23 Sec. 5. Section 28-4804, Arizona Revised Statutes, is amended to read:

24 28-4804. Abandoned vehicle administration monies; deposit

25 The department ~~may receive monies pursuant to section 28-4802 and~~ SHALL
26 DEPOSIT all monies collected pursuant to this chapter ~~for deposit~~ in the
27 state highway fund established by section 28-6991. The department OF
28 TRANSPORTATION shall use monies collected pursuant to this chapter to carry
29 out the duties prescribed by this chapter AND TO REIMBURSE THE DEPARTMENT'S
30 AUTHORIZED THIRD PARTY ELECTRONIC SERVICE PROVIDER FOR COSTS INCURRED
31 RELATING TO TRANSMITTING THE INFORMATION PRESCRIBED BY SECTION 28-4836.

1 Sec. 6. Section 28-4834, Arizona Revised Statutes, is amended to read:

2 28-4834. Vehicle removal

3 A. An officer who has reasonable grounds to believe that a vehicle has
4 been lost, stolen, abandoned or otherwise unclaimed may remove or cause the
5 removal of the vehicle from any street or highway or on any other public,
6 federal, state trust, national forest, state park or bureau of land
7 management land or private property.

8 B. In counties with a population of less than one million five hundred
9 thousand persons, before an officer removes or causes the removal of a
10 vehicle that is abandoned as provided in section 28-4839 from the person in
11 possession of the vehicle, the owner or lienholder of the vehicle or any
12 other person who has an interest in the vehicle shall pay the person on whose
13 property the vehicle was discovered an amount that does not exceed five
14 dollars for each day of storage up to a maximum of five hundred dollars for
15 the storage of the vehicle and the fee for processing an abandoned vehicle
16 report as prescribed by section 28-4802 if the person on whose property the
17 vehicle was discovered does both of the following:

18 1. Notifies a law enforcement agency by telephone in the jurisdiction
19 where the vehicle was discovered of the presence of the vehicle on the
20 person's property within forty-eight hours after the property owner
21 discovered the vehicle.

22 2. Gives notice of abandonment of the vehicle in the manner prescribed
23 by law.

24 C. This section does not require a law enforcement agency to pay any
25 charges related to a vehicle that a law enforcement agency is required or
26 otherwise authorized by law to impound or remove.

27 D. If a person removes or causes the removal of an abandoned vehicle
28 from private property, the person shall both:

29 1. Obtain written authorization from the owner or lessee of the
30 property on a form prescribed by the director.

31 2. Submit the form and the vehicle identification form to the
32 department.

1 E. An officer who is employed by a public agency or political
2 subdivision and who has removed an abandoned vehicle pursuant to this section
3 or who has removed or caused to be removed a vehicle pursuant to section
4 28-872 shall inspect the vehicle and shall DO BOTH OF THE FOLLOWING:

5 1. Complete the vehicle identification form prescribed or approved by
6 the director. The agency or political subdivision shall make an inquiry to
7 determine whether the abandoned vehicle is a stolen abandoned vehicle.

8 2. COMMUNICATE ALL OF THE FOLLOWING TO THE OFFICER'S LAW ENFORCEMENT
9 AGENCY AND PROVIDE TO THE TOWING COMPANY THAT TOWED THE VEHICLE THE NAME,
10 ADDRESS AND TELEPHONE NUMBER, IF THE TELEPHONE NUMBER IS KNOWN, OF THE
11 REGISTERED OWNER AND THE PRIMARY LIENHOLDER OF THE VEHICLE:

12 (a) THE VEHICLE IDENTIFICATION NUMBER.

13 (b) A NUMBER IDENTIFYING THE LAW ENFORCEMENT AGENCY AND THE OFFICER
14 ORDERING THE TOW.

15 (c) THE YEAR, MAKE AND MODEL OF THE VEHICLE.

16 (d) THE LICENSE PLATE NUMBER IF AVAILABLE.

17 (e) THE DATE AND TIME THE VEHICLE WAS TOWED.

18 (f) THE ADDRESSES FROM WHICH AND TO WHICH THE VEHICLE WAS TOWED.

19 F. THE OFFICER SHALL PROVIDE THE TOW TRUCK OPERATOR WITH THE FORM
20 DESCRIBED IN SUBSECTION E, PARAGRAPH 1 OF THIS SECTION. THE TOW TRUCK
21 OPERATOR MUST PROVIDE THE FORM TO THE PERSON RESPONSIBLE FOR FILING THE
22 ABANDONED VEHICLE REPORT PURSUANT TO SECTION 28-4838. THE PERSON RESPONSIBLE
23 FOR FILING THE ABANDONED VEHICLE REPORT SHALL SUBMIT THE FORM TO THE
24 DEPARTMENT AT THE TIME THE PERSON FILES THE ABANDONED VEHICLE REPORT.

25 G. THE LAW ENFORCEMENT AGENCY RECEIVING INFORMATION PURSUANT TO
26 SUBSECTION E OF THIS SECTION SHALL ELECTRONICALLY RECORD THE INFORMATION AS
27 PRESCRIBED BY THE DEPARTMENT OF PUBLIC SAFETY. THE DEPARTMENT OF PUBLIC
28 SAFETY SHALL MAKE THE INFORMATION AVAILABLE TO THE DEPARTMENT OF
29 TRANSPORTATION.

30 H. WHEN THE DEPARTMENT OF TRANSPORTATION RECEIVES THE INFORMATION FROM
31 THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF TRANSPORTATION SHALL SEND
32 NOTICE BY FIRST CLASS MAIL TO ALL PERSONS LISTED ON THE DEPARTMENT OF

TRANSPORTATION'S RECORDS AS HAVING AN OWNERSHIP INTEREST IN THE VEHICLE. THE NOTICE SHALL INCLUDE THE VEHICLE IDENTIFICATION NUMBER, THE NAME AND TELEPHONE NUMBER OF THE TOWING COMPANY THAT TOWED THE VEHICLE AND THE ADDRESS TO WHICH THE VEHICLE WAS TOWED. THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION MAY INCLUDE ADDITIONAL INFORMATION ON THE NOTICE AS THE DIRECTOR DEEMS NECESSARY.

~~F.~~ I. A person who has removed or caused to be removed an abandoned vehicle from public land pursuant to section 28-4802 or private property shall have the vehicle inspected by an officer or agent of the department who shall complete the vehicle identification form prescribed by the director. The officer or agent designated by the director shall make an inquiry to determine whether the abandoned vehicle is a stolen abandoned vehicle AND ELECTRONICALLY COMMUNICATE THE VEHICLE INFORMATION PRESCRIBED BY THIS SECTION TO THE DEPARTMENT IN A MANNER PRESCRIBED BY THE DEPARTMENT.

Sec. 7. Section 28-4836, Arizona Revised Statutes, is amended to read:

28-4836. Towed vehicles; notification; violation; classification

A. Except if acting under the direction of a peace officer, a person who moves or tows a vehicle into a public garage, parking lot, storage yard or automotive recycling yard or on private property without the consent of the vehicle owner or the owner's agent shall DO BOTH OF THE FOLLOWING WITHIN ONE HOUR AFTER THE VEHICLE IS MOVED OR TOWED:

1. Notify the law enforcement agency of the jurisdiction where the vehicle was located before the moving or towing. The notification shall be by telephone ~~within one hour of the time the vehicle is moved or towed.~~

2. ELECTRONICALLY COMMUNICATE ALL OF THE FOLLOWING TO THE DEPARTMENT THROUGH THE DEPARTMENT'S AUTHORIZED THIRD PARTY ELECTRONIC SERVICE PROVIDER IN A FORM PRESCRIBED BY THE DIRECTOR:

(a) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE TOWING COMPANY IN POSSESSION OF THE VEHICLE.

(b) THE VEHICLE IDENTIFICATION NUMBER IF AVAILABLE.

(c) THE YEAR, MAKE AND MODEL OF THE VEHICLE, IF KNOWN, OR A DESCRIPTION OF THE VEHICLE.

(d) THE LICENSE PLATE NUMBER IF AVAILABLE.

(e) THE DATE AND TIME THE VEHICLE WAS TOWED.

(f) THE ADDRESSES FROM WHICH AND TO WHICH THE VEHICLE WAS TOWED.

B. A person who fails to comply with this section forfeits all claims for towing and storing the vehicle and is guilty of a class 1 misdemeanor."

Renumber to conform

Page 2, between lines 24 and 25, insert:

"E. A PERSON IN THIS STATE MAY CHOOSE ANY VEHICLE REPAIR FACILITY FOR THE REPAIR OF A MOTOR VEHICLE. AT THE SAME TIME A TOWING COMPANY OR OPERATOR OF A TOWING VEHICLE PROVIDES INFORMATION ABOUT A VEHICLE REPAIR FACILITY, THE COMPANY OR OPERATOR SHALL INFORM THE PERSON OF BOTH OF THE FOLLOWING:

1. THE PERSON'S RIGHT TO CHOOSE ANY VEHICLE REPAIR FACILITY FOR THE REPAIR OF A MOTOR VEHICLE.

2. ANY COMMONALITY OF OWNERSHIP BETWEEN THE VEHICLE REPAIR FACILITY AND EITHER THE TOWING COMPANY OR THE OPERATOR OF THE TOWING VEHICLE."

Reletter to conform

Line 32, after the period insert "EXCEPT AS PROVIDED IN SUBSECTION H OF THIS SECTION,"

Strike lines 39 through 43, insert:

"1. ATTEMPT TO INTIMIDATE, UNREASONABLY PERSUADE OR INDUCE THE PERSON REQUESTING THE TOW OR TRANSPORT OF A VEHICLE TO CHOOSE THE SERVICES OF THE VEHICLE REPAIR FACILITY RECOMMENDED BY THE TOWING COMPANY.

2. REFUSE TO TOW OR TRANSPORT THE VEHICLE UNLESS THE PERSON REQUESTING THE TOW OR TRANSPORT OF A VEHICLE AGREES TO THE VEHICLE REPAIR FACILITY RECOMMENDED BY THE TOWING COMPANY.

3. DELIVER A VEHICLE TO A VEHICLE REPAIR FACILITY OTHER THAN THE VEHICLE REPAIR FACILITY CHOSEN BY THE PERSON REQUESTING THE TOW OR TRANSPORT OF THE VEHICLE.

4. MAKE AN INTENTIONAL MISREPRESENTATION REGARDING THE CONDITION OF THE VEHICLE, THE PERSON'S INSURER OR A SPECIFIC VEHICLE REPAIR FACILITY."

Page 3, strike lines 1 through 3, insert:

"H. AN AUTOMOBILE MEMBERSHIP ASSOCIATION THAT TOWS ITS MEMBERS' VEHICLES IN ACCORDANCE WITH THE ASSOCIATION'S TERMS OF MEMBERSHIP MAY PAY ITS EMPLOYEES IN THE NORMAL COURSE OF BUSINESS."

Line 4, strike "THE VEHICLE IS"

Between lines 11 and 12, insert:

"J. SUBSECTION E OF THIS SECTION DOES NOT CREATE A PRIVATE RIGHT OR CAUSE OF ACTION TO OR ON BEHALF OF ANY PERSON."

Reletter to conform

Strike lines 17 and 18, insert:

"L. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A PETTY OFFENSE. A PERSON WHO SUBSEQUENTLY VIOLATES THIS SECTION WITHIN THIRTY-SIX MONTHS AFTER A PRIOR VIOLATION OF THIS SECTION IS GUILTY OF A CLASS 3 MISDEMEANOR."

Line 19, strike the comma insert ":

1. "GIFT" DOES NOT INCLUDE AN ITEM OF NOMINAL VALUE.
- 2."

After line 20, insert:

Sec. 9. Heading change

The chapter heading of title 28, chapter 11, Arizona Revised Statutes, is changed from "ABANDONED, SEIZED AND JUNK VEHICLES" to "ABANDONED, SEIZED, JUNK AND TOWED VEHICLES".

Sec. 10. Title 28, chapter 11, Arizona Revised Statutes, is amended by adding article 4, to read:

ARTICLE 4. PRIVATE PROPERTY TRESPASS TOWERS

28-4901. Definition of private property trespass tower

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "PRIVATE PROPERTY TRESPASS TOWER" MEANS ANY PERSON WHO DOES BOTH OF THE FOLLOWING:

1. COMMERCIALY OFFERS SERVICES TO TOW, TRANSPORT OR IMPOUND MOTOR VEHICLES FROM PRIVATE PROPERTY WITHOUT THE PERMISSION OF THE OWNER OR OPERATOR OF THE VEHICLE.
2. USES A VEHICLE DESIGNED FOR OR ADAPTED TO PERFORM THE SERVICES PRESCRIBED BY PARAGRAPH 1.

1 28-4902. Towing rates

2 A. EACH PERSON ENGAGING IN THE BUSINESS OF A PRIVATE PROPERTY TRESPASS
3 TOWER IS SUBJECT TO THE RATES ESTABLISHED BY A CITY OR TOWN PURSUANT TO
4 SECTION 9-499.05 OR A COUNTY PURSUANT TO SECTION 11-251.04.

5 B. IF A CITY, TOWN OR COUNTY DOES NOT SET RATES FOR PRIVATE PROPERTY
6 TRESPASS TOWING, THE CONTRACT OR WRITTEN AUTHORIZATION ENTERED INTO BETWEEN
7 THE TOWER AND PRIVATE PROPERTY OWNER OR OWNER'S AGENT SHALL SPECIFY RATES FOR
8 THE FOLLOWING:

9 1. THE COMMERCIAL TOWING OR REMOVAL OF TRESPASSING VEHICLES FROM
10 PRIVATE PROPERTY.

11 2. THE STORAGE FOR PERIODS OF MORE THAN TWENTY-FOUR HOURS OF VEHICLES
12 IN CONNECTION WITH TOWING OR REMOVAL.

13 3. OTHER SERVICES PROVIDED BY A PRIVATE PROPERTY TRESPASS TOWER.

14 28-4903. Towing performed pursuant to police action

15 THIS ARTICLE DOES NOT REGULATE OR OTHERWISE AFFECT TOWING PERFORMED BY
16 ANY PRIVATE PROPERTY TRESPASS TOWER OR PRIVATE TOWING CARRIER PURSUANT TO THE
17 ORDER OR REQUEST OF A LAW ENFORCEMENT OFFICIAL OR AGENCY PURSUANT TO SECTION
18 28-872, 28-3511 OR 28-4834.

19 28-4904. Record requirements

20 A. EACH PRIVATE PROPERTY TRESPASS TOWER WHO TOWS VEHICLES PURSUANT TO
21 THIS ARTICLE SHALL KEEP AND MAINTAIN AT THE PRIVATE PROPERTY TRESPASS TOWER'S
22 PLACE OF BUSINESS, OR AT EACH OF THE TOWER'S PLACES OF BUSINESS IF THE TOWER
23 HAS MORE THAN ONE, A PERMANENT RECORD IN A FORM PRESCRIBED BY THE DIRECTOR
24 RECORDING AND DESCRIBING THE FOLLOWING FOR EACH VEHICLE REMOVED BY THE
25 PRIVATE PROPERTY TRESPASS TOWER:

26 1. THE MAKE, MODEL AND DESCRIPTION OF THE VEHICLE.

27 2. THE NAME OF THE OWNER OF THE VEHICLE OR OWNER'S AGENT REQUESTING
28 RELEASE OF THE VEHICLE.

29 3. THE NUMBER OF THE LICENSE PLATE OF THE VEHICLE OR THE VEHICLE
30 IDENTIFICATION NUMBER IF AVAILABLE.

31 4. THE EXTERIOR CONDITION OF THE VEHICLE.

1 5. THE ADDRESSES FROM WHICH AND TO WHICH THE VEHICLE WAS TOWED OR
2 TRANSPORTED.

3 B. THE PRIVATE PROPERTY TRESPASS TOWER SHALL MAINTAIN THE RECORD AT
4 THE TOWER'S ESTABLISHED PLACE OF BUSINESS FOR A PERIOD OF AT LEAST THREE
5 YEARS AFTER THE DATE OF REMOVING EACH VEHICLE RECORDED.

6 C. AUTHORIZED REPRESENTATIVES OF THE DEPARTMENT OR ANY LAW ENFORCEMENT
7 AGENCY MAY INSPECT THE RECORDS KEPT BY THE PRIVATE PROPERTY TRESPASS TOWER AT
8 ANY TIME DURING REGULAR BUSINESS HOURS.

9 D. DURING BUSINESS HOURS AND AFTER REASONABLE DEMAND, EACH PRIVATE
10 PROPERTY TRESPASS TOWER SHALL ALLOW ANY PERSON DESCRIBED IN SUBSECTION C TO
11 PHYSICALLY COMPARE THE RECORDS REQUIRED TO BE MAINTAINED WITH THE VEHICLES
12 THAT ARE LOCATED AT THE TOWER'S PLACE OF BUSINESS.

13 28-4905. Unlawful practices

14 A. A PRIVATE PROPERTY TRESPASS TOWER SHALL:

15 1. BEFORE REMOVAL OF A VEHICLE, NOTIFY THE DEPARTMENT OF
16 TRANSPORTATION AND THE LAW ENFORCEMENT AUTHORITIES IN THE JURISDICTION IN
17 WHICH THE TRESPASSING VEHICLE WAS TOWED, TRANSPORTED OR IMPOUNDED AS
18 PRESCRIBED IN SECTION 28-4836.

19 2. IN THE OFFICE OR LOCATION AT WHICH TOWED VEHICLES ARE ROUTINELY
20 RETURNED TO THEIR OWNERS, PROMINENTLY POST THE NAME, ADDRESS AND TELEPHONE
21 NUMBER OF THE NEAREST LAW ENFORCEMENT AGENCY HAVING JURISDICTION OVER THE
22 CITY OR COUNTY WHERE THE VEHICLE IS RELEASED WHERE INQUIRIES OR COMPLAINTS
23 MAY BE PRESENTED AND MAKE AVAILABLE IN WRITTEN FORM THE RELEVANT STATUTES AND
24 RULES GOVERNING PRIVATE PROPERTY TRESPASS TOWERS.

25 B. A PRIVATE PROPERTY TRESPASS TOWER SHALL NOT:

26 1. TOW, TRANSPORT OR IMPOUND ANY VEHICLE FROM PRIVATE PROPERTY WITHOUT
27 HAVING FIRST OBTAINED THE WRITTEN AUTHORIZATION OF THE PROPERTY OWNER OR
28 OTHER PERSON IN LAWFUL POSSESSION OR CONTROL OF THE PROPERTY OR THE
29 AUTHORIZED AGENT OF THAT PERSON. THE AUTHORIZATION MAY BE ON A CONTRACTUAL
30 BASIS COVERING A SPECIFIC PERIOD OF TIME, NOT TO EXCEED ONE YEAR, OR LIMITED
31 TO A SPECIFIC REMOVAL.

1 2. CHARGE TO OR ACCEPT OR OTHERWISE COLLECT FROM THE PRIVATE PROPERTY
2 OWNER OR AUTHORIZED AGENT WHO REQUESTED THAT AN UNAUTHORIZED VEHICLE BE
3 TOWED, TRANSPORTED OR IMPOUNDED FROM THE OWNER'S PROPERTY ANY FEES FOR
4 REMOVING THE VEHICLE CONTRARY TO ANY TERMS THAT MAY BE PART OF THE CONTRACT
5 BETWEEN THE PROPERTY OWNER AND THE PRIVATE TOWING CARRIER.

6 3. TOW, TRANSPORT OR IMPOUND A VEHICLE WHEN THE OWNER OR OPERATOR OF
7 THE VEHICLE IS PRESENT OR ARRIVES AT THE VEHICLE LOCATION AT ANY TIME BEFORE
8 THE COMPLETION OF REMOVAL OF THE VEHICLE FROM THE PRIVATE PROPERTY AND IS
9 WILLING AND ABLE TO REMOVE THE VEHICLE IMMEDIATELY. IN SUCH CASE, NO FEE MAY
10 BE CHARGED TO THE VEHICLE OWNER OR OPERATOR FOR RELEASE OF THE VEHICLE AT THE
11 TOW SITE.

12 4. EXCEPT FOR AN ABANDONED VEHICLE, TOW, TRANSPORT OR IMPOUND ANY
13 VEHICLE FROM PROPERTY ON WHICH SIGNS ARE REQUIRED AND ON WHICH SIGNS ARE NOT
14 POSTED PURSUANT TO SECTION 9-499.05 OR 11-251.04.

15 5. IMPOSE ANY CHARGE FOR SERVICE OR STORAGE OTHER THAN THE RATES SET
16 BY THE CITY OR TOWN PURSUANT TO SECTION 9-499.05, THE COUNTY PURSUANT TO
17 SECTION 11-251.04 OR THE CONTRACT OR WRITTEN AUTHORIZATION PURSUANT TO
18 SECTION 28-4902.

19 6. USE DRIVERS OR OTHER PERSONNEL WHO ARE NOT EMPLOYEES OR CONTRACTORS
20 OF THE PRIVATE PROPERTY TRESPASS TOWER.

21 7. VIOLATE THIS ARTICLE.

22 28-4906. Civil and criminal penalties

23 THIS ARTICLE DOES NOT LIMIT OR ALTER THE VEHICLE OWNER'S CIVIL OR
24 CRIMINAL LIABILITY FOR TRESPASS. THIS ARTICLE DOES NOT LIMIT OR ALTER THE
25 CIVIL OR CRIMINAL LIABILITY OF ANY PERSON FOR ANY ACT OR OMISSION. ALL
26 PENALTIES ACCRUING UNDER THIS ARTICLE ARE CUMULATIVE.

27 28-4907. Posting of rates

28 EACH PRIVATE PROPERTY TRESPASS TOWER SHALL PRINT AND KEEP OPEN TO THE
29 PUBLIC ALL AUTHORIZED RATES AND CHARGES FOR TOWING, OTHERWISE MOVING AND
30 STORING VEHICLES IN CONNECTION WITH THE REMOVAL OF UNAUTHORIZED VEHICLES FROM
31 PRIVATE PROPERTY. THE RATES AND CHARGES SHALL BE CLEARLY STATED IN DOLLAR

1 AMOUNTS AND SHALL BE POSTED IN THE FORM AND MANNER AND SHALL CONTAIN THE
2 INFORMATION THAT THE DEPARTMENT PRESCRIBES BY RULE.

3 28-4908. Release of relocated vehicles; nonpayment;
4 identification

5 BEFORE RELEASE OF A VEHICLE THAT IS TOWED, TRANSPORTED OR IMPOUNDED BY
6 A PRIVATE PROPERTY TRESPASS TOWER PURSUANT TO THIS ARTICLE, THE OWNER OF THE
7 VEHICLE OR THE OWNER'S AGENT SHALL PAY OR MAKE SATISFACTORY ARRANGEMENTS TO
8 PAY FOR ANY TOWING AND STORAGE COSTS THAT COMPLY WITH THE RATES SET PURSUANT
9 TO SECTION 9-499.05, SECTION 11-251.04 OR A CONTRACT OR WRITTEN AUTHORIZATION
10 PURSUANT TO SECTION 28-4902, EXCEPT THAT A PRIVATE PROPERTY TRESPASS TOWER
11 SHALL NOT REFUSE TO RELEASE TO THE OWNER OR THE OWNER'S AUTHORIZED AGENT A
12 VEHICLE THAT THE PRIVATE PROPERTY TRESPASS TOWER TOWS PURSUANT TO THIS
13 ARTICLE IF THE OWNER OR THE OWNER'S AUTHORIZED AGENT REFUSES TO PAY THE
14 TOWING AND STORAGE COSTS. THE PRIVATE PROPERTY TRESPASS TOWER MAY REQUIRE
15 THE DISPLAY OF A DRIVER LICENSE OR OTHER RELIABLE IDENTIFICATION FROM THE
16 PERSON CLAIMING THE VEHICLE.

17 28-4909. Civil remedies; definitions

18 A. PAYMENT OF THE TOWING AND STORAGE FEES BY THE VEHICLE OWNER OR THE
19 OWNER'S AGENT TO OBTAIN THE RELEASE OF A VEHICLE FROM A TOWING COMPANY,
20 OPERATOR OR DISPATCHER DOES NOT CONSTITUTE AN ADMISSION BY THE VEHICLE OWNER
21 OR THE OWNER'S AGENT THAT THE VEHICLE WAS PARKED IN VIOLATION OF SECTION
22 9-499.05 OR 11-251.04 OR LIMIT THE VEHICLE OWNER OR THE OWNER'S AGENT IN
23 PURSUING ANY AVAILABLE CIVIL REMEDY TO DISPUTE ANY ACTION TAKEN BY THE
24 FOLLOWING:

25 1. THE PROPERTY OWNER OR THE PROPERTY OWNER'S AGENT WHO IS EXERCISING
26 AUTHORITY OVER THE PROPERTY FROM WHICH THE VEHICLE WAS TOWED.

27 2. THE PERSON ENGAGED IN THE BUSINESS OF A PRIVATE PROPERTY TRESPASS
28 TOWER THAT TOWED THE OWNER'S VEHICLE.

29 B. THIS ARTICLE DOES NOT PRECLUDE A PERSON WHO IS ENGAGED IN THE
30 BUSINESS OF A PRIVATE PROPERTY TRESPASS TOWER FROM PURSUING ANY AVAILABLE
31 CIVIL REMEDY TO COLLECT FROM A VEHICLE OWNER ANY LAWFUL TOWING AND STORAGE

1 FEES IMPOSED PURSUANT TO SECTION 9-499.05, SECTION 11-251.04 OR A CONTRACT OR
2 WRITTEN AUTHORIZATION PURSUANT TO SECTION 28-4902.

3 C. FOR THE PURPOSES OF THIS SECTION:

4 1. "DISPATCHER" MEANS ANY PERSON WHO, AS AN EMPLOYEE OR AGENT OF A
5 PRIVATE PROPERTY TRESPASS TOWER, DISPATCHES VEHICLES TO OR FROM LOCATIONS
6 WHERE OPERATORS PERFORM REMOVAL ACTIVITIES.

7 2. "OPERATOR":

8 (a) MEANS ANY PERSON WHO DOES BOTH OF THE FOLLOWING:

9 (i) AS AN EMPLOYEE OF A PRIVATE PROPERTY TRESPASS TOWER, TOWS,
10 TRANSPORTS OR IMPOUNDS MOTOR VEHICLES FROM PRIVATE PROPERTY WITHOUT THE
11 PERMISSION OF THE OWNER OR OPERATOR OF THE VEHICLE.

12 (ii) USES A VEHICLE DESIGNED FOR OR ADAPTED TO PERFORM THE SERVICES
13 PRESCRIBED BY ITEM (i).

14 (b) INCLUDES THE DRIVER OF ANY VEHICLE USED IN TOWING, TRANSPORTING OR
15 IMPOUNDING A TRESPASSING VEHICLE FROM PRIVATE PROPERTY AND ANY PERSON OTHER
16 THAN THE DRIVER WHO ASSISTS IN THE TOWING, TRANSPORTING OR IMPOUNDING OF A
17 TRESPASSING VEHICLE FROM PRIVATE PROPERTY.

18 28-4910. Violation; classification

19 A PERSON WHO VIOLATES THIS ARTICLE IS GUILTY OF A CLASS 1 MISDEMEANOR.

20 Sec. 11. Delayed repeal

21 Title 28, chapter 11, article 4, Arizona Revised Statutes, as added by
22 this act, is repealed from and after June 30, 2018."

23 Amend title to conform

ANDY BIGGS

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